

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MATT HOSSEINZADEH,)
)
Plaintiff,)
)
vs.) Case No. 16-cv-3081 (KBF)
)
ETHAN KLEIN and HILA KLEIN,) Volume I
)
Defendants.)
_____)

- NON-CONFIDENTIAL PORTION -

VIDEOTAPED DEPOSITION OF MATT HOSSEINZADEH

Los Angeles, California

Wednesday, January 4, 2017

Reported by: Judith Schlussel
CSR No. 4307
NDS Job No.: 188094

1 Q. And your date of birth?

2 A. August 19, 1977.

3 Q. Where were you born?

4 A. Tehran, Iran.

5 Q. Are you a United States citizen? 09:05:31

6 A. Yes, I am.

7 Q. And when did you become a citizen, sir?

8 A. I can't recall the exact date.

9 Q. Can you give us the approximate date?

10 A. 2001 or '2, approximately. 09:05:49

11 Q. And as part of that citizenship process,
12 did you take any classes?

13 A. No.

14 Q. Did you have any training?

15 A. No. 09:06:09

16 Q. How do you earn a living presently?

17 A. Combination of multiple jobs.

18 Q. Okay. And could you tell us each of those
19 jobs.

20 A. Film producer, music producer. 09:06:26

21 Q. Slow down, please.

22 A. Film producer, music producer, and I
23 currently work in the food service industry.

24 Q. When you say you work in the food service
25 industry, are you a pizza delivery person? 09:06:41

1 A. I am.

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24 (The following page, 18, is designated as

25 confidential and is bound and indexed separately.)

1	Q. How long have you been a pizza delivery	
2	person?	
3	A. Four years.	
4	Q. Is that a full-time job?	
5	A. No.	09:07:32
6	Q. How many hours a week, approximately, do	
7	you work?	
8	A. 25.	

9	Q. When you say you are a film producer, are	
10	you employed by anybody else?	09:07:48
11	A. No.	
12	Q. Okay. We got to have a couple of ground	
13	rules around here. It's for your benefit as well as	
14	mine. One of them is I don't interrupt you and you	
15	don't interrupt me.	09:07:57
16	A. Uh-huh.	
17	Q. You have to wait until I finish the	
18	question --	
19	A. Okay.	
20	Q. -- for a couple of reasons. No. 1, it's	09:08:02
21	difficult for the court reporter to take down two	
22	people talking at the same time. No. 2, the meaning	
23	of the question can change by the time I get to the	
24	end of the question.	
25	A. Uh-huh.	09:08:13

1 Q. Do you rent or is that something you own?

2 A. I rent.

3 Q. How long have you lived there?

4 A. Approximately three, three and a half

5 years.

09:14:44

6 Q. Do you reside with anybody?

7 A. No.

8 Q. Have you lived with anybody during that
9 three-and-a-half-year period?

10 A. No.

09:14:52

11 Q. Where did you live before that?

12 A. West L.A.

13 Q. Did you reside with anybody in West L.A.?

14 A. No.

15 Q. How long did you live in West L.A. for?

09:15:04

16 A. Approximately three years.

17 Q. Now, did you have employment before being a
18 pizza delivery person?

19 A. Yes.

20 Q. And was there a period where you were

09:15:27

21 unemployed or have you consistently been employed?

22 A. Between those two?

23 Q. Before being a pizza delivery person, were
24 you employed someplace else?

25 A. Yes.

09:15:42

1	Q.	Where were you employed?	
2	A.	Driver's Ed Direct.	
3	Q.	What is that?	
4	A.	It's a driving school.	
5	Q.	When were you employed there? Which years?	09:15:55
6	A.	Approximately 2009 to 2013.	
7	Q.	What was your job there?	
8	A.	I taught driving.	
9	Q.	Was that full time or part time or did it	
10	vary?		09:16:14
11	A.	Part time.	
12	Q.	And how many hours approximately part time?	
13	A.	Between 15 and 20 hours.	
14	Q.	Were you terminated?	
15	A.	I was.	09:16:44
16	Q.	Why?	
17	A.	Customer complaints.	
18	Q.	About what?	
19	A.	Using vulgar language during a lesson.	
20	Q.	Were those complaints true?	09:16:58
21	A.	Define vulgar.	
22	Q.	I'm sorry?	
23	A.	Define vulgar.	
24	Q.	Well, how do you define it? You said	
25	vulgar language.		09:17:08

1 A. I'm quoting the company.

2 Q. Did they define vulgar to you?

3 A. They gave me an example.

4 Q. What was that?

5 A. I used the word retarded. 09:17:20

6 Q. You had referred to a customer as retarded?

7 A. No.

8 Q. Who had you referred to as retarded?

9 A. Another driver on the road.

10 Q. But you said they were customer complaints. 09:17:32

11 What were the customer complaints about?

12 A. The student talks about the lesson.

13 Q. Okay. And what did the student complain

14 about?

15 A. That I used that language during the 09:17:48

16 lesson.

17 Q. About another driver?

18 A. About someone who cut us off, yes.

19 Q. Who was the other driver?

20 A. I don't know. 09:17:59

21 Q. Was there more than one complaint?

22 A. I don't know.

23 Q. Okay. Were you told that there was more

24 than one complaint?

25 A. I don't recall. 09:18:11

1 Q. Who was your supervisor at the driver ed
2 company?

3 A. Tim Mileski.

4 Q. Where is that company located?

5 A. I believe Northridge. 09:18:31

6 Q. Are they still in business?

7 A. Yes. To my knowledge.

8 Q. Do you know if Mr. Mileski is still
9 employed there?

10 A. I don't know. 09:18:43

11 Q. Do you remember their address, by any
12 chance?

13 A. No.

14 Q. And prior to 2009, were you employed?

15 A. Yes. 09:18:55

16 Q. Full time or part time?

17 A. Part time.

18 Q. Where were you employed?

19 A. Menlo College.

20 Q. That's located where? 09:19:09

21 A. Menlo Park.

22 Q. It's up north?

23 A. Yes.

24 Q. What was your employment there?

25 A. I managed the bookstore. 09:19:23

1 Q. How long were you employed there?

2 A. Approximately four years.

3 Q. Was that full time or part time?

4 A. That was full time.

5 Q. Why did you leave?

09:19:43

6 A. I moved down here.

7 Q. Were you terminated?

8 A. No.

9 Q. Why did you move from Northern California
10 to Southern California?

09:19:57

11 A. To pursue my filmmaking and music career.

12 Q. And did you have a supervisor at the
13 bookstore in Menlo College?

14 A. Yes.

15 Q. Who was that?

09:20:12

16 A. Ragni. Can't remember the last name.

17 Q. Were you married at the time that you were
18 working in the bookstore?

19 A. At the bookstore, part of it.

20 Q. And did your moving down here have to do
21 with the end of your marriage as well?

09:20:33

22 A. No.

23 Q. What was your former wife's name?

24 A. Criselia.

25 Q. Spell it, please.

09:20:45

1 A. C-R-I-S-E-L-I-A.

2 Q. Same last name as you?

3 A. Yes.

4 Q. While you were married?

5 A. Yes.

09:20:55

6 Q. What was her name before you were married,
7 last name?

8 A. Garcia.

9 Q. Spell it, please.

10 A. G-A-R-C-I-A.

09:21:01

11 Q. Where does she live, if you know?

12 A. Menlo Park.

13 Q. Presently?

14 A. Yes.

15 Q. Do you know her address?

09:21:12

16 A. Not off the top of my head.

17 Q. Is she employed?

18 A. Yes.

19 Q. What does she do?

20 A. Housecleaner.

09:21:26

21 Q. And before working at Menlo College, where
22 did you work?

23 A. Fry's Electronics.

24 Q. Spell it, please.

25 A. F-R-I [sic] apostrophe S, Electronics.

09:21:43

1 Q. Where were they located?

2 A. Palo Alto.

3 Q. And is that where you worked -- it's a
4 chain. Is that where you worked?

5 A. Yes. 09:21:58

6 Q. And when did you work there?

7 A. To my recollection, 1997 to 2001.

8 Q. What was your job there?

9 A. I managed the computer department.

10 Q. Was that full time or part time? 09:22:32

11 A. Full time.

12 Q. Why did you leave there?

13 A. Better offer.

14 Q. They paid you more at the Menlo bookstore?

15 A. Yeah. Well, not necessarily salary, but 09:22:47
16 other benefits.

17 Q. What were those other benefits?

18 A. Better hours, free health care, free
19 tuition.

20 Q. Anything else? 09:23:09

21 A. That's it.

22 Q. Okay. When you say free tuition, is Menlo
23 College a private college?

24 A. Yes.

25 Q. Is it four years? 09:23:18

1 A. Yes.

2 Q. Did you attend it?

3 A. No.

4 Q. Did you leave with the idea that you were

5 going to attend it?

09:23:30

6 A. I considered it.

7 Q. You decided against attending?

8 A. Yes.

9 Q. Why was that?

10 A. Not enough time.

09:23:41

11 Q. Did you consider a particular course of
12 study at Menlo College?

13 A. Business.

14 Q. Before Fry's Electronics, where were you
15 employed? Well, were you employed?

09:23:58

16 A. Guess Jeans.

17 Q. Where was that, sir?

18 A. San Jose.

19 Q. And did you have a supervisor?

20 A. Yes.

09:24:18

21 Q. Was that full time?

22 A. No.

23 Q. How many hours a week approximately?

24 A. I can't remember.

25 Q. Well, approximately?

09:24:32

1 A. I really can't remember.

2 Q. What did you do at Guess Jeans?

3 A. Sales and merchandising.

4 Q. Were you terminated there?

5 A. No. 09:24:46

6 Q. Why did you leave?

7 A. Better pay, better opportunities at Fry's.

8 Q. You mentioned that you managed the computer
9 department for Fry's Electronics. Do you have a
10 computer background? 09:25:00

11 A. I had on-the-job training.

12 Q. For Fry's?

13 A. Uh-huh.

14 Q. Yes?

15 A. Yes. 09:25:08

16 Q. I don't mean to be rude but I do need to
17 get an answer. Okay?

18 A. Yes.

19 Q. And taking it back from Guess Jeans, how
20 long were you employed there? 09:25:19

21 A. Approximately six months.

22 Q. What year was that? Best you can recall?

23 A. 1997.

24 Q. Were you employed before that?

25 A. Yes. 09:25:40

1	Q. Where?	
2	A. Express.	
3	Q. What is that?	
4	A. Clothing store.	
5	Q. Did you do sales or what did you do?	09:25:48
6	A. Inventory.	
7	Q. Full time or part time?	
8	A. Part time.	
9	Q. About when was this?	
10	A. 1996.	09:26:00
11	Q. When you were working part time at Guess	
12	Jeans, did you have other activities that occupied	
13	your time?	
14	A. Yes.	
15	Q. What were those?	09:26:11
16	A. I made films and I made music.	
17	Q. What kind of films?	
18	A. Short films.	
19	Q. What format?	
20	A. Hi8s, DV.	09:26:28
21	Q. Any others?	
22	A. No.	
23	Q. When you say you made music, what kind of	
24	music did you make?	
25	A. Electronic music.	09:26:42
		36

1 Q. Were any of the films published?

2 A. No.

3 Q. Were any of the films copyrighted?

4 A. My early films, no.

5 Q. And when you say short films, about how 09:26:54
6 long were they?

7 A. They ranged between two and maybe eight
8 minutes.

9 Q. Were they of a particular type or genre?

10 A. Comedy. 09:27:13

11 Q. And were you the star in your own films?

12 A. Sometimes.

13 Q. And others you had other people?

14 A. Yes.

15 Q. Were they professional comedians? 09:27:26

16 A. No.

17 Q. How did you get people to be in your films?

18 A. Friends.

19 Q. And were they friends doing comedy?

20 A. Some of them. 09:27:39

21 Q. Were they scripted?

22 A. They were all scripted.

23 Q. Was there a theme?

24 A. Define theme.

25 Q. Well, theme. Theme could be relationships, 09:27:51

1 theme could be sports, theme could be inspiration.

2 I'm just giving you examples, but you're not bound
3 by my examples.

4 A. Well, each story had a different theme, I
5 mean different subject if that's what you're asking. 09:28:12

6 Q. Was there one overarching subject that you
7 had in your films?

8 A. At that time, no.

9 Q. Do you still have any of those films?

10 A. I have a few. 09:28:25

11 Q. Okay. Have those films ever shown anyplace
12 other than to friends?

13 A. Some of them.

14 Q. Where have they shown?

15 A. One film got into a film festival. 09:28:45

16 Q. What was that?

17 A. When I moved down here, one of my short
18 films, String Theory got into the L.A. short film
19 festival, 2009.

20 Q. This was not while you were employed at 09:29:03
21 Guess Jeans?

22 A. No.

23 Q. And are you working part time now because
24 you're pursuing your film career?

25 A. Yes. 09:29:19

1 Q. Taking us back in time, you worked for
2 Express for about a year. Where did you work before
3 that?

4 A. I was in school.

5 Q. When you say you were in school, was that 09:29:34
6 college or was that high school or some other
7 school?

8 A. Prior to Guess and Express, it was college.

9 Q. Where did you go to college?

10 A. I attended De Anza College. 09:29:49

11 Q. Spell it, please.

12 A. D-E A-N-Z-A.

13 Q. Was that a two-year or four-year school?

14 A. Two year.

15 Q. Where was it located? 09:30:02

16 A. Cupertino.

17 Q. Did you graduate?

18 A. No.

19 Q. How much schooling did you have there?

20 A. Two semesters maybe. 09:30:19

21 Q. When you say maybe, do you have a firm
22 recollection of that or not really?

23 A. No.

24 Q. Did you have a particular course of study?

25 A. Film and business. 09:30:32

1 Q. How many film courses did you take?

2 A. I don't recall.

3 Q. What is your best approximation?

4 A. One.

5 Q. Was that a survey course?

09:30:51

6 A. What is a survey course?

7 Q. Let me ask you this. What kind of course

8 was it?

9 A. It was film production, film theory.

10 Q. Both?

09:31:07

11 A. I took one of those. I don't remember the
12 other one. And I had business classes.

13 Q. Okay. I'm being unclear now. It's my
14 fault. You said you took a film production course.

15 A. Uh-huh.

09:31:21

16 Q. Was that the title of the course, film
17 production?

18 A. I don't remember the exact title but it was
19 about film production.

20 Q. Did you do a project for that?

09:31:29

21 A. I didn't finish my project.

22 Q. Did you start it?

23 A. No.

24 Q. Did you drop out of the course?

25 A. Yes.

09:31:40

1 Q. You said you took a film theory class.

2 A. Same class.

3 Q. Same class? That's the class you dropped
4 out of?

5 A. Yes. 09:31:51

6 Q. Is there a reason you dropped out?

7 A. I was paying out of state tuition.

8 Q. And what was that about paying out of state
9 tuition that led you to drop out of the course?

10 A. I had recently moved to California. 09:32:09

11 Q. What was there about -- you're saying there
12 is a cause and effect. You dropped out of the
13 course because you were paying out of state tuition.

14 A. Uh-huh.

15 Q. All right. Why did you drop out of the 09:32:19
16 course because you were paying out of state tuition?

17 A. I couldn't afford the out of state tuition.

18 Q. They didn't make you pay it up front?

19 A. But I got a refund on part of it.

20 Q. Okay. So you paid it, you dropped out and 09:32:37
21 you got a refund? Is that correct?

22 A. Yes.

23 Q. Where did you go to high school?

24 A. Homestead High School.

25 Q. Where is that located? 09:32:51

1 A. Cupertino.

2 Q. Cupertino, California?

3 A. Yes.

4 Q. Why is it that you were paying out of state

5 tuition at the college?

09:33:01

6 A. I moved overseas between the two.

7 Q. Between high school and going to college?

8 A. Yes.

9 Q. Where did you move?

10 A. Austria.

09:33:11

11 Q. I'm sorry?

12 A. Austria.

13 Q. Was there a reason?

14 A. My father lives there.

15 Q. Did you work in Austria?

09:33:23

16 A. I did.

17 Q. What type of work did you do?

18 A. I worked at a bookstore.

19 Q. Full or part time?

20 A. Part time.

09:33:39

21 Q. How long did you live in Austria for?

22 A. Three years at that time.

23 Q. Did you pursue any higher education in

24 Austria?

25 A. I was still finishing high school.

09:33:54

1 Q. Did you take any film classes in high
2 school?

3 A. I don't recall.

4 Q. Have you ever taken any class in theater?

5 A. Like acting classes? 09:34:12

6 Q. Like acting classes, let's start with that.

7 A. Yes.

8 Q. Where?

9 A. Shelton Theater, San Francisco.

10 Q. Did you pay for that class? 09:34:26

11 A. Yes.

12 Q. Was there any kind of degree or certificate
13 attached to that?

14 A. No.

15 Q. And did you act in place or were they 09:34:36
16 sketch classes? What type of class?

17 A. Sketch, place, yes.

18 Q. Both?

19 A. Both.

20 Q. And was there any kind of certificate 09:34:49
21 attached to that course?

22 A. Not that I know of.

23 Q. How long did you go to Shelton Theater?

24 A. Three quarters.

25 Q. So it was a real school as such? 09:35:06

1 A. Acting school.

2 Q. Acting school, okay. You dropped out of
3 there as well?

4 A. No. I finished three quarters.

5 Q. Was there any sort of certificate or degree 09:35:20
6 that was attached to that school if you had attended
7 longer?

8 A. I don't know.

9 Q. Any other education or courses that we
10 haven't already covered? 09:35:36

11 A. I attended Acting For The Camera, West L.A.
12 College.

13 Q. What did you take there?

14 A. Acting For The Camera. I attended a master
15 class in screenwriting at UCLA, invitation only. I 09:35:51
16 took a music theory class at West Los Angeles
17 College. I took an art appreciation class in
18 West Los Angeles College.

19 Q. Did you complete the acting class?

20 A. I did. 09:36:15

21 Q. Did you complete the music theory class?

22 A. I did.

23 Q. Did you -- well, was that class at UCLA,
24 was that part of their extension college?

25 A. I don't know. They didn't call it that. 09:36:27

1 Q. What did they call it?

2 A. Master class in screenwriting.

3 Q. And how did you get in there?

4 A. I applied.

5 Q. Was that a full-time course?

09:36:40

6 A. It was one year.

7 Q. Did you complete the course?

8 A. Yes.

9 Q. Did you get any kind of a certificate?

10 A. I don't recall.

09:36:52

11 Q. Okay. Did you do a project for that
12 course?

13 A. Yes.

14 Q. What was the project?

15 A. Feature length screenplay.

09:37:02

16 Q. Has that ever been published?

17 A. Like a book?

18 Q. Like a book.

19 A. No.

20 Q. Has it ever been produced?

09:37:15

21 A. No.

22 Q. Has it ever been optioned?

23 A. No.

24 Q. What was the title?

25 A. Eternal Death.

09:37:22

1	Q. What was it about?	
2	A. It's about -- it's complicated. It's about	
3	a homicide detective tracking down a serial killer.	
4	Q. And is that a -- what would you call it?	
5	What genre would you call it?	09:37:40
6	A. Action, thriller.	
7	Q. Do you appear -- well, were you going to	
8	cast yourself in it?	
9	A. No.	
10	Q. Was there any sort of a grade attached to	09:37:54
11	that, in the course?	
12	A. I don't recall any kind of grade given out.	
13	Q. All right. In addition to the various	
14	employments that we've talked about, you are a	
15	YouTube creator. Is that fair to state?	09:38:16
16	A. Yes.	
17	Q. And what is the name of your company for	
18	that?	
19	UNIDENTIFIED SPEAKER: Video connection was	
20	lost.	09:38:30
21	MR. KRAVITZ: Can we go off the record.	
22	THE VIDEOGRAPHER: Time is 9:38 A.M. We're	
23	off the record.	
24	(Recess taken.)	
25	THE VIDEOGRAPHER: We are on the record at	09:44:45
		46

1 discuss YouTube analytics. They have an online
2 academy which most creators, when they become
3 partners, they go through that little academy. So
4 it teaches all about how to read the charts, how to
5 make sure -- make your channel successful. 12:41:23

6 Q. All right. I'm trying to determine the
7 source of your personal understanding. Is it
8 self-taught, is it going to the academy?

9 A. It's both. It's self-taught through years
10 of experience and I've attended the academy and the 12:41:38
11 meet-ups that they've had.

12 Q. Do you notice that the estimated revenue
13 for the work in question was relatively high until
14 January 2016?

15 A. Yes. 12:41:54

16 Q. And there is a noticeable drop at that
17 point?

18 A. Yes.

19 Q. Then another drop after May of 2016?

20 A. Yes. 12:42:01

21 Q. Do you have any explanation as to the first
22 drop?

23 A. I do.

24 Q. What is that?

25 A. The YouTube ad revenue is seasonal. It 12:42:06

1 starts low in January, blows up in November,
2 December, then it drops again in January.

3 Q. Any understanding as to why that is?

4 A. Absolutely. Consumers are out shopping for
5 the holiday season. So they have big budgets for 12:42:19
6 advertising.

7 Q. What is the explanation for the second
8 drop?

9 A. The second drop, well, that is going to be
10 that huge spike you see in June, that's the traffic 12:42:30
11 that came from the fallout regarding the We're Being
12 Sued video. So it brought in a huge amount of
13 traffic for about a week and then once the channel
14 had been affected by the behavior of the visitors,
15 it dropped and it's stayed there. 12:42:53

16 Q. By the behavior of the visitors, what do
17 you mean?

18 A. Disliking, primarily disliking and dropping
19 the average viewer retention time.

20 Q. Is there a slight bump in revenue from 12:43:09
21 2-4-16 to 3-6-16?

22 A. There seems to be a slight bump there.

23 Q. Okay. Do you have an explanation for that?

24 A. No. Things get shared and it starts --
25 again, starts low January 1st and it just starts 12:43:29

1 creeping upwards through the summer and into
2 Thanksgiving.

3 Q. Do you have an opinion as to whether the
4 defendants' video boosted revenue for your work?

5 A. Whether they boosted it? 12:43:46

6 Q. Uh-huh.

7 A. They brought traffic which had an indirect
8 effect temporarily boosting it for, we see, what,
9 three days, because there is traffic. Whether the
10 traffic is good intention or bad intention, the 12:44:01
11 clicks boosted the revenue for a couple days.

12 Q. Aside from YouTube, was the work posted on
13 any other website?

14 A. No.

15 Q. There is no other source of revenue for the 12:44:15
16 work other than the YouTube; is that correct?

17 A. Strictly -- this is the only upload.

18 Q. Let's take a look at 137 and 138. Okay?

19 A. Yeah.

20 Q. All right. And how many overall views did 12:44:38
21 the work have in February 2016?

22 A. February 2016? Maybe nine-and-a-half
23 million or so.

24 Q. And how many views does the work have now?

25 A. Ten. Ten and a half. Last time I checked. 12:44:55

1 Q. And views from foreign countries v. U.S.?

2 A. U.S. was No. 1.

3 Q. Is that No. 1 over 50 percent?

4 A. I don't recall.

5 Q. Have you ever purchased views from foreign 12:48:14
6 countries?

7 A. I've never purchased views.

8 Q. Or from the U.S.?

9 A. No. It's against YouTube's policy.

10 Q. Do you know of anybody who watched 12:48:25
11 defendants' video instead of your work?

12 A. Personally?

13 Q. Yes.

14 A. Specific people?

15 Q. Yes. 12:48:32

16 A. No.

17 Q. Has anybody told you that they looked at
18 defendants' video instead of your work?

19 MR. BUKHER: Objection. Asks for
20 privileged communication, funny enough. 12:48:42

21 Q. BY MR. KRAVITZ: Other than any
22 conversation with your lawyers, do you know of
23 anyone who told you that they watched defendants'
24 video instead of your work?

25 A. No. 12:48:53

1 Q. Do you have any analytic data as to anybody
2 watching defendants' video instead of your work?

3 A. I don't have access to that.

4 Q. Do you have any evidence that defendants'
5 video cut into the market for your work? 12:49:12

6 A. What do you mean by cut into market?

7 Q. That the defendants' video prevented you
8 from earning revenue on your video.

9 A. Well, that's slightly different. The first
10 thing you asked, there is two different ways to lose 12:49:32
11 revenue, right. They can watch [sic] revenue
12 instead of mine. That's one way to lose it. The
13 other way is to get attacked by over a million
14 people and lose revenue that way. So which one are
15 you asking? 12:49:47

16 Q. Let's try the first one first. I think
17 you've already answered that, that you have no
18 evidence of people watching defendants' video rather
19 than yours?

20 A. Yeah, I have no evidence of someone coming 12:49:55
21 up to me saying, hey, Matt, I watched the other
22 person's video and I refuse to watch yours.

23 Q. Okay. Now let's ask the second, which is
24 do you have any evidence that by virtue of the
25 Kleins' video, people did not watch your video? 12:50:11

1 A. Isn't that what we just answered?

2 Q. No.

3 A. Which one did we just answer?

4 MR. KRAVITZ: Let's get it back.

5 (Record read.)

12:50:22

6 THE WITNESS: So my answer goes to that
7 question. It wouldn't make sense on any other
8 question.

9 Q. BY MR. KRAVITZ: So you have no evidence
10 that by virtue of the Kleins' video people did not
11 look at your video?

12:50:55

12 A. I have no evidence, no.

13 Q. Okay. Do you have any evidence that
14 because of the Kleins' video, more people took a
15 look at your video?

12:51:10

16 A. Do I have evidence because -- that more
17 people came?

18 Q. Yes, sir.

19 A. Well, on this chart, there is a spike or
20 two. That's -- I consider that evidence.

12:51:19

21 Q. Okay. Do you have an opinion other than
22 advice of counsel and discussion with counsel as to
23 whether the Kleins' video seeks a different audience
24 than yours?

25 A. I don't have an opinion regarding what kind

12:51:41

1 of audience they seek.

2 Q. And do you have any information about the
3 demographics of the Kleins' video?

4 A. I do not have information regarding the
5 demographics of their video or channel. 12:51:51

6 Q. Do you sell any merchandise from this work?

7 A. No.

8 Q. Have you ever?

9 A. No.

10 Q. Shorts, t-shirt? 12:51:59

11 A. No.

12 Q. Have you ever licensed your work to a third
13 party?

14 A. Other than YouTube standard license, I have
15 not licensed my work to any third party. 12:52:12

16 Q. And have you licensed any portion of this
17 work to anybody?

18 A. No.

19 Q. Have you ever licensed to a third party for
20 any of your other videos? 12:52:24

21 A. No.

22 Q. Have you ever tried?

23 A. No.

24 Q. Has anybody ever approached you asking to
25 license your video? 12:52:31

1 A. Yes.

2 Q. Who?

3 A. I don't recall the name of the companies.

4 Q. More than one?

5 A. Yes.

12:52:40

6 Q. And how were you approached?

7 A. Email.

8 Q. Did you retain those emails?

9 A. I may have some. If I don't do business

10 with them, I generally might delete it.

12:52:51

11 Q. Okay. And do you remember the names of any
12 of those companies?

13 A. I don't remember their names.

14 Q. Do you remember which businesses they're

15 in?

12:53:03

16 A. Online streaming. Yeah.

17 Q. Any others?

18 A. I don't recall any others.

19 Q. And did you have discussion with any of

20 these companies about licensing?

12:53:16

21 A. I did not.

22 Q. You didn't pursue it?

23 A. I did not.

24 Q. Any reason?

25 A. I didn't think they were offering anything

12:53:28

1 favorable compared to YouTube.

2 Q. Did you have an economic understanding of
3 what they were offering?

4 A. They laid out certain terms in their
5 emails. 12:53:42

6 Q. They just simply were not as good as
7 YouTube?

8 A. I didn't think so.

9 Q. Did YouTube have a policy at the time that
10 you were approached that you could only post on 12:53:50
11 YouTube?

12 A. No.

13 Q. So you could have taken advantage of these
14 other postings without losing your YouTube license,
15 correct? 12:54:01

16 A. Well, it's complicated because some of the
17 offers are tied into YouTube.

18 Q. In what sense?

19 A. Advertising networks.

20 Q. Okay. 12:54:09

21 A. So they work with YouTube but they get a
22 cut.

23 Q. That's why you felt it was simply not
24 worthwhile?

25 A. I felt that they were not offering a better 12:54:16

1	deal than YouTube directly.	
2	Q. Okay. Do you have an economic	
3	understanding of the deal that YouTube offers?	
4	A. I do.	
5	Q. And how is that gauged?	12:54:26
6	A. How is the revenue created?	
7	Q. Correct.	
8	A. Off of advertising, and now they have	
9	YouTube Red.	
10	Q. And are you familiar with the thresholds of	12:54:41
11	the advertising as to how you get paid?	
12	A. The threshold where they first give you a	
13	payment?	
14	Q. Yes.	
15	A. I believe it's \$100 a month or \$100 in	12:54:53
16	general. It accumulates until it hits a hundred.	
17	Then they pay you.	
18	(Deposition Exhibit No. 7 was marked for	
19	identification and is part of the flash drive.)	
20	MR. KRAVITZ: Let's take a look at Exhibit	12:55:04
21	7, which is a video We're Being Sued.	
22	(Video We're Being Sued plays.)	
23	MR. KRAVITZ: Let's go off the record for a	
24	second.	
25	(Counsel confer.)	12:55:57
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